

OFFICIAL GAZETTE

GOVERNMENT OF GOA, DAMAN AND DIU

GOVERNMENT OF GOA, DAMAN AND DIU

Department of Personnel and Administrative Reforms

Notification

1-21(2)/77-Div. I

In exercise of the powers conferred by the proviso to article 309 of the Constitution, read with the Government of India, Ministry of External Affairs letter No. F. 7(11)/62-Goa dated the 25th July, 1963, the Administrator of Goa, Daman and Diu is pleased to make the following rules relating to recruitment to the Group 'C' posts of Junior Engineers and Foreman Workshop in the Office of the Chief Electrical Engineer under Government of Goa, Daman and Diu.

1. **Short title.**— These rules may be called Goa, Daman and Diu Government, Office of the Chief Electrical Engineer Group 'C' (Non-ministerial non-(Gazetted) posts, Recruitment Rules 1977.

2. **Application.**— These rules shall apply to the posts specified in column 1 of the Schedule to these rules.

3. **Number, classification and scale of pay.**— The number of posts, classification of the said posts and the scales of pay attached thereto shall be as specified in columns 2 to 4 of the said Schedule.

4. **Method of recruitment, age limit and other qualifications.**— The method of recruitment to the said posts, age limit, qualifications and other matters connected therewith shall be as specified in columns 5 to 13 of the aforesaid Schedule.

Provided that,

- (a) the maximum age limit specified in the Schedule in respect of direct recruitment may be relaxed in the case of candidates belonging to the Scheduled Castes and Scheduled Tribes and other special categories in accordance with the orders issued by the Government from time to time; and
- (b) no male candidate, who has more than one wife living and no female candidate, who has married a person having already a wife living, shall be eligible for appointment, unless the Government, after having been satisfied that there are special grounds for doing so, exempts any such candidate from the operation of this rule.

5. These rules will come into effect from the date of the Notification and will relate to appointment to the various posts made on or after this date.

6. These rules are issued in supersession of the existing recruitment rules for the posts.

T. Kipgen
Chief Secretary

Panaji, 31st August, 1977.

SCHEDULE

Name of the post	No. of posts	Classification	Scale of Pay	Whether Selection Post or non-Selection Post	Age limit for direct recruits	Educational and other qualifications required for direct recruits	Whether age and educational qualifications prescribed for the direct recruits will apply in the case of promotees	Period of probation, if any	Method of recruitment whether by direct recruitment or by promotion or by deputation/transfer, and percentage of the vacancies to be filled by various methods	In case of recruitment, by promotion/deputation/transfer, grades from which promotion/deputation/transfer is to be made	If a DPC exists, what is its composition	Circumstances in which U. P. S. C. is to be consulted in making recruitment
1	2	3	4	5	6	7	8	9	10	11	12	13
1. Jr. Engineer (Civil)	4	Group 'C' (Non-ministerial non-gazetted)	Rs. 425-15-500-EB-15-560-20-700.	Selection	30 years (Relaxable for Govt. servants)	Degree or Diploma in Civil Engineering from a recognised University/Institution or equivalent.	N. A.	2 years	By transfer on deputation failing which by direct recruitment.	Transfer on deputation: Jr. Engineers (Civil) under Public Works Department Govt. of Goa, Daman and Diu and possessing the educational qualifications prescribed in column 7. (Period of deputation not exceeding 4 years)	N. A.	As required under the rules.
2. Foreman-Workshop	1	— do —	Rs. 425-15-500-EB-15-560-20-700.	— do —	30 years (Relaxable for Govt. servants)	Degree or Diploma in Electrical Engineering from a recognised University or Institution or equivalent with at least 2 years experience in Electrical Mechanic Workshop.	N. A.	— do —	By direct recruitment.	N. A.	N. A.	— do —
3. Jr. Engineer (Electrical)	102	— do —	Rs. 425-15-500-EB-15-560-20-700.	N. A.	30 years (Relaxable for Govt. servants)	Degree or Diploma in Electrical Engineering from a recognised University or Institution.	N. A.	— do —	Direct recruitment.	N. A.	N. A.	— do —

Home Department (Transport and Accommodation)

Notification

HD(T)/11-97/76

In pursuance of the second proviso to sub-rule (7) of Rule 5.2 of the Goa, Daman and Diu Motor Vehicles Rules, 1965, the Lieutenant Governor of Goa, Daman and Diu is pleased to amend the Government Notification No. HD(T)/11-97/76 dated 13-7-1977 published in the Official Gazette No. 16, Series I, dated 21-7-1977, as follows:—

In Government Notification No. HD(T)/11-97/76 dated 13-7-1977 published in the Official Gazette No. 16, Series I, dated 21-7-1977, after item (d), the following shall be added.

“(e) Two jeeps of the Office of the Inspector General of Police, Panaji, used for piloting the motor vehicle used by His Excellency the Lieutenant Governor of Goa, Daman and Diu and by the Honourable Chief Minister, Goa, Daman and Diu”.

By order and in the name of the Lieutenant Governor of Goa, Daman and Diu.

K. B. Verekar, Under Secretary (Home).

Panaji, 26th September, 1977.

Education and Public Works Department

Directorate of Education

ORDER

DE/Accts/CPF/I/71/21066

Read: Govt. Order No. DE/Sec/32/66/21848 dated 25-3-1971.

Existing rule 31(x) of the above mentioned order regarding Triple Benefit Scheme in Non-Govt. Secondary Schools is modified and be read as under:—

“The entire service in one or more aided institutions will count for pension/gratuity provided the transfer from one school to the other has been made with the concurrence of the Director of Education and provided further that he continues to contribute to C. P. Fund. All services so rendered should, however, be in the same Union Territory or if the Union Territory has been carved out of a state, that part of erstwhile state which now forms the Union Territory”.

This order is issued with the prior concurrence of the Ministry of Finance, Govt. of India, as conveyed by the Ministry of Education and Social Welfare, (Dept. of Education), Govt. of India, New Delhi vide their letter No. F.A. 38017/3/76-UT-I dated 24-5-1976.

By order and in the name of the Administrator of Goa, Daman and Diu.

B. da Cruz, Director of Education and Additional Secretary to Govt. of Goa, Daman and Diu.

Panaji, 23rd August, 1977.

Law and Judiciary Department

Notification

LD/6015/I/76

The following Central Acts (1) The Tea (Amendment) Act, 1976 (75 of 1976), (2) The National Library of India Act, 1976 (76 of 1976) and (3) The Disturbed Areas (Special Courts) Act, 1976 (77 of 1976) which were recently passed by the Parliament and assented to by the President of India on 11-6-76 and published in the Gazette of India Part II, Section I dated 11-6-76 are hereby republished for general information of the public.

B. S. Subbanna, Under Secretary (Law).

Panaji, 21st December, 1976.

The Tea (Amendment) Act, 1976

AN

ACT

further to amend the Tea Act, 1953.

Be it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Tea (Amendment) Act, 1976.

2. *Insertion of new Chapter IIIA.*—After Chapter III of the Tea Act, 1953, 29 of 1953, the following Chapter shall be inserted, namely:—

CHAPTER IIIA

Management or control of tea undertakings or tea units by the Central Government in certain circumstances

16A. *Definitions.*—(1) In this Chapter, unless the context otherwise requires,—

(a) “authorised person” means the person or body of persons authorised, or appointed, by the Central Government under this Act to take over the management of any tea undertaking or tea unit;

(b) “company” means a company within the meaning of section 3 of the Companies Act, 1956; 1 of 1956.

(c) “district average yield” means the average yield of tea in the district in which one or more tea units are located, as published by the Board;

(d) “notified order” means an order notified in the Official Gazette;

(e) “tea undertaking” means an undertaking engaged in the production or manufacture, or both, of tea through one or more tea units;

(f) “tea unit” means a tea estate or garden, including a sub-division thereof, which has a distinct entity for which accounts are kept and has a factory of its own for the production and manufacture of tea.

(2) References to an industrial undertaking in such of the provisions of the Industries (Development and Regulation) Act, 1951, as apply to a tea undertaking or tea unit by virtue of the provisions of this Chapter, shall be construed as references to a tea undertaking or tea unit, as the case may be, and references in the Act aforesaid to any provision of that Act, as applicable to a tea undertaking or tea unit, in relation to which a corresponding provision has been made in this Act, shall be construed as references to such corresponding provision. 65 of 1951.

16B. *Power to cause investigation to be made in relation to a tea undertaking or tea unit.*—(1) Where the Central Government is of opinion in respect of a tea undertaking or a tea unit that—

(a) the tea undertaking or, as the case may be, the tea unit, has made losses in three out of five years immediately preceding the year in which such opinion is formed; or

(b) the average yield of the tea undertaking, or, as the case may be, the tea unit, during three years out of five years immediately preceding the year in which such opinion is formed, has been lower than the district average yield by twenty-five per cent., or more; or

(c) the persons owning the tea undertaking, or, as the case may be, the tea unit, have habitually made default in the payment of wages, or provident fund dues of workers and other employees, or rent of the land, or duties of excise, or such other dues as they are under an obligation to pay under any law for the time being in force; or

(d) the tea undertaking, or, as the case may be, the tea unit, is being managed in a manner highly detrimental to the tea industry or to public interest,

the Central Government may make, or cause to be made, a full and complete investigation into the affairs of the tea undertaking or, as the case may be, the tea unit, by such person or body of persons as it may appoint for the purpose.

(2) Where a company owning a tea undertaking is being wound up by or the supervision of the Court and the business of such company is not being continued, the Central Government may, if it is of opinion that it is necessary, in the interests of the general public, and, in particular, in the interest of production, supply or distribution of tea, to investigate into the possibility of running or restarting the tea undertaking, make an application to the Court, praying for permission to make, or cause to be made, an investigation into such possibility by such person or body of persons as that Government may appoint for the purpose; and, where such an application is made, the Court shall, notwithstanding anything contained in the Companies Act, 1956, or in any other law for the time 1 of 1956.

being in force, grant the permission prayed for.

(3) The person or body of persons appointed to make any investigation under sub-section (1) or, as the case may be, sub-section (2), shall have the same powers as are specified in section 18 of the Industries (Development and Regulation) Act, 1951. 65 of 1951.

16C. *Power of Central Government on completion of investigation.*—(1) If, after making or causing to be made any such investigation as is referred to in sub-section (1) of section 16B, the Central Government is satisfied that action under this section is desirable, it may issue such directions to the tea undertaking or tea unit concerned, as may be appropriate in the circumstances, for all or any of the following purposes, namely:—

(a) regulating the production of tea by the tea undertaking or, as the case may be, tea unit and fixing the standards of production;

(b) requiring the tea undertaking or, as the case may be, tea unit to take such steps as the Central Government considers necessary to stimulate the production, manufacture or plantation, of tea;

(c) prohibiting the tea undertaking or, as the case may be, tea unit from resorting to any act or practice which might reduce its production, capacity or economic value;

(d) controlling the prices, or regulating the distribution, of tea produced or manufactured by the tea undertaking or, as the case may be, tea unit.

(2) Where a case relating to any tea undertaking or tea unit is under investigation, the Central Government may issue, at any time, any direction of the nature referred to in sub-section (1) to the tea undertaking or the tea unit concerned and any such direction shall have effect until it is varied or revoked by the Central Government.

16D. *Power of Central Government to assume management or control of tea undertaking or tea unit in certain cases.*—(1) If the Central Government is of opinion that—

(a) a tea undertaking or tea unit, to which directions have been issued in pursuance of section 16C, has failed to comply with such, directions, or the tea undertaking, or, as the case may be, the tea unit, has made losses in three out of five years immediately preceding the year in which such opinion is formed; or

(b) the average yield of the tea undertaking, or, as the case may be, the tea unit, during three years out of five years immediately preceding the year in which such opinion is formed, has been lower than the district average yield by twenty-five per cent. or more; or

(c) the persons owning the tea undertaking, or, as the case may be, the tea unit, have habitually made default in the payment of wages, or provident fund dues, of workers and other employees, or rent of the land, or duties of excise, or in the payment of such other dues as are

obligatory under any law for the time being in force; or

(d) the undertaking, or, as the case may be, the tea unit, is being managed in a manner highly detrimental to the tea industry or to public interest,

the Central Government may, by notified order, authorise any person or body of persons to take over the management of the whole or any part of the tea undertaking or tea unit, as the case may be, or to exercise in respect of the whole or any part of the tea undertaking or, as the case may be, tea unit, such functions of control as may be specified in the order.

(2) Any notified order issued under sub-section (1) shall have effect for such period, not exceeding five years as may be specified in the order:

Provided that if the Central Government is of opinion that it is expedient in the public interest that any such notified order should continue to have effect after the expiry of the period of five years aforesaid, it may from time to time issue directions for such continuance for such period, not exceeding one year at a time, as may be specified in the direction, so, however, that the total period of such continuance (after the expiry of the said period of five years) does not exceed two years; and where any such direction is issued, a copy thereof shall be laid, as soon as may be, before both Houses of Parliament.

(3) Any notified order issued under sub-section (1) shall have the same effect as if it were an order made under sub-section (1) of section 18A of the Industries (Development and Regulation) Act, 1951, and the provisions of section 18B of that Act shall apply accordingly. 65 of 1951.

(4) Notwithstanding anything contained in any law for the time being in force, no person, who ceases to hold any office by reason of the provisions contained in clause (a), or whose contract of management is terminated by reason of the provisions contained in clause (b), of section 18B of the Industries (Development and Regulation) Act, 1951, as applicable to a tea undertaking or tea unit by virtue of the provisions of sub-section (3), shall be entitled to any compensation for the loss of office or for the premature termination of his contract of management: 65 of 1951.

Provided that nothing contained in this section shall affect the right of any such person to recover from the tea undertaking or the tea unit, as the case may be, monies recoverable otherwise than by way of such compensation.

16E. *Power to take over tea undertaking or tea unit without investigation under certain circumstances.* — (1) Without prejudice to any other provision of this Act, if, from the documentary or other evidence in its possession, the Central Go-

vernment is satisfied, in relation to a tea undertaking or tea unit, that —

(a) the persons in charge of such tea undertaking or tea unit have, by reckless investments or creation of incumbrances on the assets of the tea undertaking or tea unit, or by diversion of funds, brought about a situation which is likely to affect the production of tea, manufactured or produced by the tea undertaking or tea unit, and that immediate action is necessary to prevent such a situation; or

(b) it has been closed for a period of not less than three months (whether by reason of the voluntary winding up of the company owning the tea undertaking or tea unit or for any other reason) and such closure is prejudicial to the concerned tea undertaking or tea unit and that the financial condition of the company owning the tea undertaking or tea unit and the plant and machinery of such tea undertaking or tea unit are such that it is possible to restart the tea undertaking or tea unit and such restarting is necessary in the interests of the general public,

it may, by notified order, authorise any person or body of persons to take over the management of the whole or any part of the tea undertaking or tea unit or to exercise in respect of the whole or any part of the tea undertaking or tea unit such functions of control as may be specified in the order.

(2) On the issue of a notified order under sub-section (1) in respect of a tea undertaking or tea unit, —

(a) the provisions of sub-sections (2), (3) and (4) of section 16D, and the provisions of section 16G, shall apply to a notified order made under sub-section (1) as they apply to a notified order made under sub-section (1) of section 16D; and

(b) the provisions of sub-sections (3) and (4) of section 18AA of the Industries (Development and Regulation) Act, 1951, shall apply to the tea undertaking or tea unit, as the case may be, to the same extent as they apply to an industrial undertaking. 65 of 1951.

16F. *Contracts in bad faith, etc., may be cancelled or varied.* — Without prejudice to the provisions of section 183 of the Industries (Development and Regulation) Act, 1951, as applicable to a tea undertaking or tea unit, as the case may be, the person or body of persons authorised under section 16D, or, as the case may be, section 16E, to take over the management of a tea undertaking or tea unit may, with the previous approval of the Central Government, make an application to any court having jurisdiction in this behalf for the purpose of cancelling or varying any contract or agreement entered into, at any time before the issue of the notified order under section 16D or section 16E, between the tea under- 65 of 1951.

taking or the tea unit and any other person; and the court may, if satisfied after due inquiry that such contract or agreement had been entered into in bad faith or is detrimental to the interests of the tea undertaking or tea unit, make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) that contract or agreement, and the contract or agreement shall have effect accordingly.

16G. *Application of Act 1 of 1956.* — (1) Where the management of a tea undertaking or tea unit owned by a company has been taken over by any person or body of persons authorised by the Central Government under this Act, then, notwithstanding anything contained in the said Act or in the memorandum or articles of association of such company, —

(a) it shall not be lawful for the shareholders of such company or any other person to nominate or appoint any person to be a director of the company;

(b) no resolution passed in a meeting of the shareholders of such company shall be given effect to unless approved by the Central Government;

(c) no proceeding for the winding up of such company or for the appointment of receiver in respect thereof shall lie in any court except with the consent of the Central Government.

(2) Subject to the provisions contained in sub-section (1), and to the other provisions contained in this Act, and subject to such other exceptions, restrictions and limitations, if any, as the Central Government may, by notification in the Official Gazette, specify in this behalf, the Companies Act, 1956, shall continue to apply to such company in the same manner as it applied thereto before the issue of the notified order.

1 of 1956.

16H. *Power of Central Government to cancel notified order under section 16D or 16E.* — If, at any time, it appears to the Central Government on the application of the owner of a tea undertaking or tea unit or otherwise that the purpose of the order made under section 16D or section 16E, has been fulfilled or that for any other reason it is not necessary that the order should remain in force, the Central Government may, by notified order, cancel such order and, on the cancellation of any such order, the management or control, as the case may be, of the tea undertaking or tea unit, as the case may be, shall vest in the owner of that undertaking or unit.

16-I. *Power of Central Government to authorise, with the permission of the Court, persons to take over management or control of tea undertakings or tea units.* — (1) If the Central Government is of opinion that there are possibilities of running or restarting a tea undertaking or tea unit in relation to which an investigation has been made under sub-section (2) of section 16B, and that such tea

undertaking or tea unit should be run or restarted for maintaining or increasing the production, supply or distribution of tea, that Government may make an application to the Court by which the company owning such tea undertaking or tea unit has been ordered to be wound up, praying for permission to appoint any person or body of persons to take over the management of the tea undertaking or, as the case may be, tea unit, or to exercise in respect of the whole or any part of the tea undertaking or tea unit, such functions of control as may be specified in the application.

(2) Where an application is made under sub-section (1), —

(a) the provisions of sub-section (2) of section 18FA of the Industries (Development and Regulation) Act, 1951 shall apply to the tea undertaking or tea unit, as the case may be, subject to the modification that for the words "twelve years" occurring in the second proviso thereto, the words "two years" shall be substituted; 65 of 1951.

(b) the provisions of sub-sections (3) to (10) (both inclusive) of section 18FA of the Industries (Development and Regulation) Act, 1951 shall apply to the tea undertaking or tea unit referred to in sub-section (1), to the same extent as they apply to an industrial undertaking. 65 of 1951.

16J. *Power of Central Government to make certain declarations in relation to tea undertakings or tea units.* — The Central Government may, if it is satisfied in relation to a tea undertaking, tea unit or any part thereof, the management or control of which has been taken over under section 16D or under section 16E or under section 16-I, that it is necessary so to do in the interests of the general public with a view to preventing fall in the volume of the production of tea, exercise in relation to such tea undertaking or tea unit or part thereof the same powers as are exercisable by it in relation to an industrial undertaking under section 18FB of the Industries (Development and Regulation) Act, 1951, and the said section and the Third Schedule referred to therein shall apply to a tea undertaking or tea unit accordingly. 65 of 1951.

16K. *Power of Central Government to call for report on the affairs and working of a managed tea undertaking or tea unit.* — (1) Where the management or control of a tea undertaking or tea unit, as the case may be, has been taken over under section 16D or under section 16E or under section 16-I, the Central Government may, at any time during the continuance of such management or control, call for a report from the authorised person on the affairs and working of the tea undertaking or tea unit, and in submitting the report the authorised person shall take into account the inventory and list of members and creditors prepared under section 16L.

(2) On receipt of the report submitted by the authorised person, the Central Government may exercise all or any of the powers conferred on it by sections 18FD, 18FE and 18FF of the Industries (Development and Regulation) Act, 1951, to the same extent and subject to the same conditions, limitations or restrictions as are specified in the said sections, and the provisions of the said sections shall become applicable to a tea undertaking or tea unit, as the case may be. 65 of 1951.

16L. *Preparation of an inventory of the assets and liabilities and list of members and creditors of managed tea undertaking or tea unit.* — For the purposes of this Act, the authorised person shall, as soon as may be after taking over the management of a tea undertaking or tea unit, prepare a complete inventory of the properties, belongings, liabilities and obligations of such tea undertaking or tea unit, as the case may be, and a list of members and creditors of such tea undertaking or tea unit, in accordance with the provisions of section 18FG of the Industries (Development and Regulation) Act, 1951, and the said section shall apply to a tea undertaking or tea unit accordingly. 65 of 1951.

16M. *Bar of suits and other proceedings in relation to the tea undertakings or tea units.* — No suit or other legal proceedings shall be instituted or continued against a tea undertaking or tea unit in respect of which an order has been made under section 16D or section 16E, except with the previous permission of the Central Government or of any officer authorised by that Government in this behalf.

16N. *Rules made under Act 65 of 1951 to apply.* — Until any rule is made in relation to any matter referred to in this Chapter, the rules made by the Central Government under the Industries (Development and Regulation) Act, 1951, in relation to such matter shall, as far as may be, apply, to the extent they are not repugnant to any provision of this Act or any rule made thereunder and references in such rules to the provisions of that Act shall be construed accordingly.

The National Library of India Act, 1976

ARRANGEMENT OF CLAUSES

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2. Definitions.

CHAPTER II The National Library Board

3. Establishment and incorporation of Board.
4. Composition of the Board.

Clauses

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CHAPTER III

Property, liabilities and functions of the Board

19. Property and liabilities of Board.
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CHAPTER IV

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CHAPTER V

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The National Library of India Act, 1976

AN ACT

to provide for the administration of the National Library and certain other connected matters.

Be it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows: —

CHAPTER I

Preliminary

1. *Short title and commencement.* — (1) This Act may be called the National Library of India Act, 1976.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Definitions.* — In this Act, unless the context otherwise requires, —

(a) "Board" means the Board established under section 3;

(b) "Chairman" means the Chairman of the Board;

(c) "Fund" means the Fund referred to in section 23;

(d) "Library" means the institution located at Calcutta and known at the commencement of the Constitution as the National Library;

(e) "member" means a member of the Board and includes the Chairman;

(f) "prescribed" means prescribed by rules made under this Act.

CHAPTER II

The National Library Board

3. *Establishment and incorporation of Board.* — (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established for the purposes of this Act, a Board to be known as the National Library Board.

(2) The Board shall be a body corporate with the name aforesaid, having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and contract and may by that name, sue and be sued.

(3) Notwithstanding anything contained in sub-section (2), the Board shall not, except with the previous approval of the Central Government, sell or otherwise dispose of any manuscripts, books, articles or things belonging to the Library, other than articles of furniture, stationery and deed stock of like nature:

Provided that where any such manuscripts, books, articles or things donated by any person to the Library are proposed to be sold or otherwise disposed of, no approval under this sub-section shall be accorded unless the donor or his successor-in-interest, as the case may be, has permitted in writing to do so.

4. *Composition of the Board.* — The Board shall consist of the following members, namely: —

(i) a Chairman, being a person of academic distinction, to be nominated by the Central Government;

(ii) three persons to be elected by Parliament, two from the House of the People by the members of the House of the People and one from the Council of States by the members of the Council of States;

(iii) three persons to be nominated by the Governments of the States by rotation in the alphabetical order;

(iv) four persons to represent the Universities in India, to be nominated in the prescribed manner.

Explanation. — For the purpose of this clause "University" has the meaning assigned to it in the University Grants Commission Act, 1956 and includes an educational institution declared by Parliament by law to be an institution of national importance;

3 of 1956.

(v) the Chairman of the University Grants Commission or a member of that Commission to be nominated by the Chairman thereof;

(vi) the Chief Librarian, by whatever name called, of one of the public libraries within the meaning of clause (b) of section 2 of the Delivery of Books and Newspapers (Public Libraries) Act, 1954, but not including the National Library, Calcutta, to be nominated by the Central Government by rotation in the alphabetical order;

(vii) the Chief Librarian, by whatever name called, of one of the public libraries in India [not being a library referred to in clause (vi)] containing important collections of manuscripts of historical, literary or aesthetic importance, to be nominated by the Central Government;

(viii) one person to be nominated by the Indian Library Association, a society registered under the Societies Registration Act, 1860;

21 of 1860.

(ix) the Director, National Archives of India;

(x) eight scholars of repute in different disciplines covering humanities, science, social science, medicine, engineering and technology and law, to be nominated by the Central Government;

(xi) two persons to be elected by the officers and other employees serving in the Library from amongst themselves in such manner as may be prescribed:

Provided that at least one such person shall be a member of the technical staff of the Library.

Explanation. — For the purposes of this clause "member of the technical staff" means the Librarian, Deputy Librarian, Assistant Librarian, Technical Assistant, Junior Technical Assistant, Lecturer, Microphotographer, Chemist and such other like categories of persons as may be prescribed;

(xii) two persons, not below the rank of Joint Secretary to the Government of India, to be nominated by the Central Government, to represent respectively the Ministry or Department of the Central Government dealing with matters relating to the Library and the Ministry of the Central Government dealing with Finance;

(xiii) one person to be nominated by the Government of West Bengal to represent that Government;

(xiv) the Director of the Library, who shall be the Member-Secretary.

5. *Disqualification for office of member.* — A person shall be disqualified for being nominated, or, as the case may be, elected as, and for being, a member of the Board or the Executive Council referred to in section 11, —

(a) if he has been convicted and sentenced to imprisonment for an offence which involves moral turpitude; or

(b) if he is an undischarged insolvent; or

(c) if he is of unsound mind and is so declared by a competent court; or

(d) if he has such financial or other interest in the Board as is likely to affect prejudicially the discharge by him of his function as a member.

6. *Term of office, etc., of members.* — (1) Every nomination or election, as the case may be, of the Chairman and the other members under section 4 shall be notified by the Central Government in the Official Gazette and their term of office shall be three years from the date of such notification:

Provided that the term of office of a member elected under clause (ii) of sub-section (1) of section 4 or under clause (xi) of that sub-section shall come to an end as soon as he ceases to be a member of the House from which he was elected or, as the case may be, he ceases to be in the employment of the Board.

(2) Any nominated or elected member may resign his office by giving notice in writing to the Central Government and, on such resignation being notified by the Central Government in the Official Gazette, he shall be deemed to have vacated his office.

(3) A casual vacancy created by the resignation of a nominated or elected member under sub-section (2) or by any other reason may be filled by fresh nomination by the authority which nominated the member or, as the case may be, by fresh election by the House or body which elected the member and such nomination or election shall be notified by the Central Government in the Official Gazette and a member so nominated or elected shall hold office for the remaining period for which the member in whose place he is nominated or elected would have held office.

(4) An outgoing member shall be eligible for re-nomination or re-election.

(5) If any nominated member is by infirmity or otherwise rendered temporarily incapable of carrying out his duties or is absent on leave or otherwise in circumstances not involving the vacation of his office, the authority which nominated the member may nominate another person to act in his place during his absence.

7. *Vacation of office of member.* — The Central Government shall remove a member of the Board or the Executive Council, referred to in section 11 if he —

(a) becomes subject to any of the disqualifications mentioned in section 5:

Provided that no member shall be removed on the ground that he has become subject to the disqualification mentioned in clause (d) of that section unless he has been given a reasonable opportunity of being heard in the matter; or

(b) is, without obtaining leave of absence from the Board, absent from three consecutive meetings of the Board or the Executive Council, as the case may be.

8. *Vacancies, etc., not to invalidate acts.* — No act of the Board shall be invalid merely by reason of —

(a) any vacancy in, or defect in the constitution of, the Board, or

(b) any defect in the nomination of the person acting as a member thereof, or

(c) any irregularity in its procedure not affecting the merits of the case.

9. *Members to disclose their financial or other interest in the Board.* — Any member who is in any way directly or indirectly interested in a contract made or proposed to be made by the Board shall, as soon as possible, after the relevant circumstances have come to his knowledge, disclose the nature of his interest at a meeting of the Board and the disclosure shall be recorded in the minutes of the Board and the member shall not take part after the disclosure in any deliberation or decision of the Board with respect to that contract.

10. *Meetings of Board.* — (1) The Board shall meet at least twice a year, ordinarily at the premises of the Library, and shall, subject to the provisions of sub-sections (2), (3) and (4), observe such rules of procedure in regard to the transaction of business at its meetings including the quorum at meetings, as may be provided by regulations made under this Act.

(2) The Chairman or, in his absence, any member chosen by the members present from among themselves, shall preside at a meeting of the Board.

(3) If any member, being an officer of the Government, is unable to attend any meeting of the Board, he may, with the previous approval of the Chairman, authorise, an officer of the Ministry or Department not below the rank of Deputy Secretary to the Government of India, in writing to do so.

(4) All questions at a meeting of the Board shall be decided by a majority of the votes of the members present and voting and in the case of an equality of votes, the Chairman or, in his absence, the member presiding, shall have a second or casting vote.

11. *Executive Council.* — (1) There shall be an Executive Council of the Board consisting of nine members.

(2) The Director of the Library shall be the Chairman of the Executive Council and the other members thereof shall be appointed by the Board partly from among the members of the Board and partly from outside:

Provided that a representative each from the Ministry of the Central Government dealing with Finance and the Ministry or Department of the Central Government dealing with the Library and a representative of the Government of West Bengal shall be members of the Executive Council:

provided further that without prejudice to the provisions of the preceding proviso not more than three persons shall be appointed from outside.

(3) The Executive Council shall assist the Board in the exercise of its powers and the performance of its duties under this Act, and shall exercise such of the powers and perform such of the duties of the Board as may be prescribed or as the Board may delegate to it subject to such conditions as the Board may deem fit.

(4) With the previous approval of the Board, it shall be competent for the Executive Council to entertain and adjudicate upon any grievance of the officers and other employees of the Board.

(5) The term of office of those members of the Executive Council who are not members of the Board shall be co-terminus with the term of office of the members of the Board.

12. Temporary association of persons with Board for particular purposes.— (1) The Board may associate with itself in such manner and for such purposes as may be provided by regulations made under this Act, any person whose assistance or advice it may desire in performing any of its functions under this Act.

(2) A person associated with it by the Board under sub-section (1) for any purpose shall have the right to take part in the discussions of the Board relating to that purpose, but shall not, by virtue of this section, be entitled to vote.

13. Authentication of orders and other instruments of Board and Executive Council.— (1) All orders and decisions of the Board shall be authenticated by the signature of the Chairman or any other member authorised by the Board in this behalf and all other instruments issued by the Board shall be authenticated by the signature of an officer of the Board authorised in like manner in this behalf.

(2) All orders and decisions of the Executive Council shall be authenticated by the signature of the Director of the Library.

14. Visitor.— (1) The President of India shall be the Visitor of the Library.

(2) The Visitor shall have the right to cause an inspection of the Library to be made or to cause an inquiry to be made in respect of any matter connected with the Library by such person or persons as he may direct.

(3) The Visitor shall in every case give notice to the Board of his intention to cause an inspection or inquiry to be made and the Board shall be entitled to appoint a representative who shall have the right to be present and be heard at such inspection or inquiry.

(4) The Visitor may address the Chairman with reference to the result of such inspection and inquiry, and the Chairman shall communicate to the Board the views of the Visitor with such advice as the Visitor may offer upon the action to be taken thereon.

(5) The Board shall communicate through the Chairman to the Visitor such action, if any, as it is proposed to take or has been taken upon the result of such inspection or inquiry.

(6) Where the Board does not, within a reasonable time, take action to the satisfaction of the Visitor, the Visitor may, after considering any explanation furnished or representation made by the Board, issue such direction as he may think fit and the Board shall be bound to comply with such direction.

(7) Without prejudice to the foregoing provisions of this section, the Visitor may, by order in writing, annul or stay any proceedings of the Board which are not in conformity with the provisions of this Act or the rules or regulations made thereunder:

Provided that no such order shall be made unless the Board has been given a reasonable opportunity of making a representation in the matter.

15. Director of Library.— (1) The Visitor shall appoint, in such manner as may be prescribed, a person who is a scholar of distinction or is a distinguished librarian possessing high academic status, as the Director of the Library.

(2) The term of office of the Director shall be for a period of five years from the date on which he assumes office or up to the age of sixty years, whichever is later:

Provided that no person shall hold the office of Director after he attains the age of sixty-five years.

(3) The Director shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed.

(4) The person appointed as the Director and holding office as such at the commencement of this Act shall be deemed to have been appointed under this section and the provisions thereof shall apply to him accordingly.

16. Staff of Board.— (1) Subject to the provisions of this section, the Board may, for the purpose of enabling it efficiently to perform its functions under this Act, appoint such number of officers and other employees as it may deem fit and in making such appointments the Board shall act in conformity with the orders of the Central Government for the time being in force regarding reservation for the Scheduled Castes and the Scheduled Tribes in the services of the Union.

(2) The recruitment and conditions of service of such officers and other employees shall be such as may be provided by regulations made under this Act.

(3) Every officer or other employee of the Board, not being an officer or other employee appointed on deputation, shall be appointed on a written contract which shall be lodged with the Board and a copy of which shall be furnished to the employee concerned.

(4) Any dispute arising out of a contract between the Board and any of its officers or other employees, not being an officer or other employee appointed on deputation, shall, at the request of the employee concerned or at the instance of the Board, be referred to a Tribunal of Arbitration consisting of one member appointed by the Board, one member nominated by the employee, and an umpire appointed by the Visitor.

(5) The decision of the Tribunal of Arbitration shall be final and shall not be questioned in any court.

(6) No suit or other proceeding shall lie in any court in respect of any matter which is required by sub-section 4 to be referred to the Tribunal of Arbitration.

(7) The Tribunal of Arbitration shall have power to regulate its own procedure.

(8) Nothing in any law for the time being in force relating to arbitration shall apply to arbitrations under this section.

17. Transfer of service of existing employees to Board.— (1) On the establishment of the Board it shall be lawful for the Central Government to transfer by order and with effect from such date or dates as may be specified in the order to the

Board any of the officers or other employees serving in the Library:

Provided that no order under this sub-section shall be made in relation to an officer or other employee who has in respect of the proposal of the Central Government to transfer such officer or employee to the Board intimated within such time as may be specified in this behalf by that Government, his intention of not becoming an employee of the Board.

(2) An officer or other employee transferred by order made under sub-section (1) shall, on and from such date, cease to be an employee of the Central Government, and shall become an employee of the Board with such designation as the Board may determine and shall, subject to the provisions of sub-sections (3), (4) and (5) be governed by the regulations made by the Board under this Act as respects remuneration and other conditions of service including pension, leave and provident fund and shall continue to be an employee of the Board unless and until his employment is terminated by the Board.

(3) Every officer or other employee transferred by an order made under sub-section (1), shall, within six months from such date, exercise his option in writing to be governed —

(a) by the scale of pay applicable to the post held by him under the Government immediately before the date of establishment of the Board or by the scale of pay applicable to the post under the Board to which he is transferred,

(b) by the leave, provident fund, retirement or other terminal benefits admissible to employees of the Central Government in accordance with the rules and orders of the Central Government as amended from time to time or the leave, provident fund or other terminal benefits admissible to the employees of the Board under the regulations made by the Board under this Act, and such option once exercised shall be final:

Provided that the option exercised under clause (a) shall be applicable only in respect of the post to which such person is transferred to the Board and on appointment to a higher post under the Board, he shall be eligible only for the scale of pay applicable to such higher post:

Provided further that if immediately before the date of his transfer any such person is officiating in a higher post under the Government either in a leave vacancy or in any other vacancy of a specified duration, his pay, on transfer, shall be protected for the unexpired period of such vacancy and thereafter he shall be entitled to the scale of pay applicable to the post under the Government to which he would have reverted or to the scale of pay applicable to the post under the Board to which he is transferred, whichever he may opt.

(4) No officer or other employee transferred by an order made under sub-section (1) —

(a) shall be dismissed or removed by an authority subordinate to that competent to make a similar or equivalent appointment under the Board as may be specified in the regulations made by the Board under this Act;

(b) shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges and where it is proposed, after such inquiry, to impose on him any such penalty, until he has been given a reasonable opportunity of making a representation on the penalty proposed, but only on the basis of the evidence adduced during such inquiry:

Provided that this clause shall not apply, —

(i) where any officer or other employee is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or

(ii) where the authority empowered to dismiss or remove any officer or other employee or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry; or

(iii) to any officer or other employee who, after transfer to the Board, is appointed to a higher post under the Board in response to an open advertisement and in competition with outsiders.

(5) If, in respect of any such officer or other employee as aforesaid, a question arises whether it is reasonably practicable to hold such inquiry as is referred to in sub-section (4) the decision thereon of the authority empowered to dismiss or remove him or to reduce him in rank shall be final.

18. *Library to be known as "National Library of India" and location of Library.* — (1) On and after the commencement of this Act, the Library shall be known as "the National Library of India", and any reference to the National Library in any law for the time being in force or in any indenture, instrument or other document shall be construed as a reference to the National Library of India.

(2) The Library shall continue to be located at Calcutta.

CHAPTER III

Property, liabilities and functions of the Board

19. *Property and liabilities of Board.* — (1) On the establishment of the Board —

(i) all properties, funds and dues which are vested in, or realisable by, the Central Government for the purposes of the Library shall vest in, and be realisable by, the Board; and

(ii) all liabilities in relation to the Library, which are enforceable against the Central Government, shall be enforceable only against the Board.

(2) All properties, which may, after the establishment of the Board, be given, bequeathed or otherwise transferred to the Library or acquired by the Board shall vest in the Board.

20. (1) It shall be the general duty of the Board to manage the Library and to implement programmes for the development of the Library on modern scientific lines, to advise the Central and State Governments on matters relating to libraries and the working thereof, including the preparation

of bibliographies, descriptive catalogues and other matters and perform such other functions as the Central Government may, from time to time, assign to the Board.

(2) In particular and without prejudice to the generality of the foregoing provision, the Board may take such steps as it thinks fit, —

(a) to render service to the public for using the Library and to conserve the existing collection of manuscripts, books and other articles in the Library, on modern scientific lines;

(b) to acquire and conserve all significant production of material printed in India, all printed material concerning India irrespective of the place from where it is published, and manuscripts of national importance;

(c) to render technical advice to the other public libraries within the meaning of clause (b) of section 2 of the Delivery of Books and Newspapers (Public Libraries) Act, 1954; 27 of 1954.

(d) to undertake publication of bibliographies and assist institutions and scholars in the publication of bibliographies.

(e) to provide facilities for, or to promote symposia and seminars on matters relating to history, literature, science and the like;

(f) to arrange for the exhibition of such manuscripts, books, articles or things of the Library as, in the opinion of the Board, would be of interest to the public;

(g) to undertake and promote exchange of books and periodicals with libraries and other institutions in countries outside India;

(h) to undertake duplication (including photo-duplication), preservation of manuscripts, books, articles or things on behalf of any person or institution on such terms and conditions as may be agreed upon between the Board and such person or institution; and

(i) to do all such other things as may be commensurate with the role of a national library.

21. Powers of Board. — (1) Subject to such conditions and restrictions as the Central Government may think fit to impose, the Board may exercise all such powers as may be necessary or expedient for the purpose of carrying out its duties under this Act.

(2) Subject to such regulations as may be made by the Board in this behalf, the Board may, from time to time, purchase or otherwise acquire such manuscripts, books, articles or things as may, in the opinion of the Board, be worthy of preservation in the Library.

CHAPTER IV

Finance, accounts, audit and report

22. Grants by Central Government to Board. — For the purpose of enabling the Board to perform its functions efficiently under this Act the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Board in each financial year such sums of money as that Government considers necessary by way of grant, loan or otherwise.

23. Fund of Board. — (1) The Board shall maintain a Fund to which shall be credited.

(a) all moneys paid by the Central Government;

(b) all fees and other charges levied under this Act;

(c) all moneys received by the Board by way of grant, gift, donation, benefaction, bequest, subscription, contribution or transfer;

(d) all other moneys received by the Board in any other manner or from any other source.

(2) The Board may expend such sums as it thinks fit for performing its functions under this Act and such sums shall be treated as expenditure payable out of the Fund.

(3) A sum of money not exceeding such amount as may be provided by regulations made under this Act may be kept in current account with any scheduled bank as defined in section 2 of the Reserve Bank of India Act, 1934, or any other bank approved by the Central Government in this behalf but any moneys in excess of that sum shall be deposited in the Reserve Bank of India or with the agents of the Reserve Bank of India or invested in such manner as may be approved by the Central Government. 2 of 1934.

24. Budget. — (1) The Board shall by such date in each year as may be specified by the Central Government, submit to it for approval a budget for the next financial year in the form specified by it, showing the estimated receipts and expenditure, and the sums which would be required from the Central Government during that financial year.

(2) If any sum granted by the Central Government remains wholly or partly unspent in any financial year, the unspent sum may be carried forward to the next financial year and taken into account in determining the sum to be provided by the Central Government for that year.

(3) Subject to the provisions of sub-section (4), no sum shall be expended by or on behalf of the Board, unless the expenditure is covered by provision in the budget approved by the Central Government.

(4) Subject to such conditions and restrictions as the Central Government may think fit to impose, the Board may sanction any reappropriation from one head of expenditure to another or from a provision made for one purpose to that for another purpose.

25. Accounts and audit. — (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of account including the balance sheet in such form as may be specified, and in accordance with such general directions as may be issued, by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Board shall be audited annually by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Board shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of Government accounts, and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office of the Board and the Library.

(4) The accounts of the Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded by the Board annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

26. *Returns and report.*—(1) The Board shall furnish to the Central Government at such time and in such form and in such manner as the Central Government may direct such returns, statements and particulars as the Central Government may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1), the Board shall, as soon as possible after the commencement of each financial year, submit to the Central Government within such time as may be specified by the Central Government a report giving true and full account of the activities of the Board during the previous financial year and an account of activities likely to be undertaken during the current financial year and the Central Government shall cause the same to be laid before each House of Parliament.

CHAPTER V

Miscellaneous

27. *Delegation of powers and duties.*—The Board, may, by a general or special order in writing, direct that all or any of the powers or duties which may be exercised or discharged by it shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised or discharged also by any member, or any officer or other employee of the Board, specified in this behalf in the order.

28. *Officers and employees of Board to be public servants.*—All officers and other employees of the Board (including the Director of the Library) shall, when acting or purporting to act in pursuance of the provisions of this Act or of any rule or regulation made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

29. *Protection of action taken under the Act.*—No suit, prosecution or other legal proceeding shall lie against the Board or any member, or any officer or other employee of the Board (including the Director of the Library), for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or of any rule or regulation made thereunder.

30. Power of Central Government to make rules.—

(1) The Central Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act:

Provided that when the Board has been established no such rule shall be made without consulting the Board.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the travelling and other allowances payable to a member (including a member of the Executive Council appointed under section 11) and to a person associated with the Board under section 12;

(b) the manner of appointment to the post of, and the salary and allowances and other terms and conditions of service of, the Director of the Library under section 15;

(c) the conditions subject to which, and the mode in which, contracts may be entered into by or on behalf of the Board;

(d) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

31. *Power of Board to make regulations.*—(1) The Board may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations, not inconsistent with this Act and the rules made thereunder, for enabling it to perform its functions under this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all, or any of the following matters, namely:—

(a) the conditions and restrictions subject to which manuscripts and books in the Library may be used;

(b) the manner in which and the purposes for which persons may be associated with the Board;

(c) the time and place of meetings of the Board, the procedure to be followed in regard to the transaction of business at such meetings and the quorum necessary for the transaction of business at a meeting;

(d) the maintenance of minutes of meetings of the Board and the transmission of copies thereof to the Central Government;

(e) the recruitment and conditions of service of officers and other employee of the Board;

(f) the person by whom and the manner in which, payments, deposits and investments may be made on behalf of the Board;

(g) the maximum amount that may be kept in the current account;

(h) the maintenance of registers and accounts;

(i) the compilation of catalogues and inventories of the manuscripts, books, articles and things in the Library;

(j) the steps to be taken for the preservation of the manuscripts, books, articles and things in the Library;

(k) the general management of the Library;

(l) the fees and other charges to be levied for the facilities that may be afforded for photo-copying of manuscripts and books in the Library;

(m) the charges that may be levied by way of rent for the use of rooms in the readers' hostel in the Library;

(n) any other matter in respect of which provision is, in the opinion of the Board, necessary for the performance of its functions under this Act.

(3) The Central Government may, after consultation with the Board, by notification in the Official Gazette, amend, vary or rescind any regulation which it has approved and thereupon the regulation shall have effect accordingly but without prejudice to the exercise of the powers of the Board under sub-sections (1) and (2).

The Disturbed Areas (Special Courts) Act, 1976

AN ACT

to provide for the speedy trial of certain offences in certain areas and for matters connected therewith.

Be it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Disturbed Areas (Special Courts) Act, 1976.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States or for different parts thereof.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "Code" means the Code of Criminal Procedure, 1973; 2 of 1974.

(b) "disturbed area" means an area declared as a disturbed area under section 3;

(c) period of disturbance, in relation to a disturbed area, means the period during which it is to be a disturbed area for the purposes of section 3;

(d) "scheduled offence" means an offence specified in the Schedule being an offence forming part or arising out of, or connected with, any such disturbance as is referred to in section 3;

(e) "Special Court" means a Special Court constituted under section 4;

(f) words and expressions used but not defined in this Act, and defined in the Code shall have the meanings respectively assigned to them in the Code.

3. *Declaration of an area as disturbed area.*—(1) Where a State Government is satisfied that—

(i) there was, or

(ii) there is,

in any area within a State extensive disturbance of the public peace and tranquillity, by reason of differences or disputes between members of different religious, racial, language or regional groups or castes or communities, it may, by notification in the Official Gazette, declare such area to be a disturbed area.

(2) A notification issued under sub-section (1) in respect of any area shall specify the period during which the area shall, for the purposes of this section, be a disturbed area and where the State Government is satisfied that there was such disturbance of public peace and tranquillity as is referred to in sub-section (1) in that area from any date prior to the issue of such notification, the period specified in the notification may commence from that date:

Provided that—

(a) no period commencing from a date earlier than three months before the date of publication of the notification shall be specified therein; and

(b) so much of the period specified in such notification as is subsequent to the date of publication of the notification shall not, in the first instance, exceed three months but the State Government may amend such notification to extend such period from time to time by any period not exceeding three months at any one time if in the opinion of the State Government there continues to be in such area such disturbance of public peace and tranquillity as is referred to in sub-section (1):

Provided further that where the State Government is satisfied that there is no longer such disturbance of public peace and tranquillity as is referred to in sub-section (1) in such area, it shall amend the notification issued under that sub-section in respect of that area to limit the period specified therein (whether originally or by amendment under the preceding proviso) accordingly.

4. *Constitution of Special Courts.*—(1) The State Government may, for the purpose of providing speedy trial of scheduled offences committed in disturbed areas, by notification in the Official Gazette, constitute as many Special Courts as may be necessary in or in relation to such disturbed area or areas as may be specified in the notification.

(2) A Special Court shall consist of a single judge who shall be appointed by the High Court upon a request made by the State Government.

Explanation.—In this sub-section, the word "appoint" shall have the meaning given to it in the *Explanation* to section 9 of the Code.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless—

(a) he is qualified for appointment as a judge of a High Court, or

(b) he has, for a period of not less than one year, been a Sessions Judge or an Additional Sessions Judge.

(4) Notwithstanding anything contained in sub-section (3), a person shall not be eligible for being appointed as, and for being, a Judge of a Special Court in any State after he has attained the age at which Sessions Judges in that State have to retire from service.

5. *Jurisdiction of Special Courts.*—(1) Notwithstanding anything contained in the Code or any other law, a scheduled offence committed in any disturbed area at any time during the period during which it is a disturbed area shall be triable, whether during or after such period, only by the Special Court constituted in or in relation to the disturbed area in which the offence has been committed.

(2) When trying any scheduled offence, a Special Court may also try any offence other than the scheduled offence with which the accused may, under the Code, be charged at the same trial if the offence is connected with the scheduled offence.

6. *Procedure and powers of Special Courts.*—(1) Every scheduled offence shall be cognizable.

(2) A Special Court may take cognizance of any scheduled offence,—

(a) where under the Code such offence is an offence triable exclusively by a Court of Session, upon its being committed to it under section 209 of the Code as if the Special Court were a Court of Session;

(b) in any other case, upon a police report of the facts together with a certificate from the public prosecutor to the effect that the offence is triable exclusively by the Special Court.

(3) Where a scheduled offence is an offence triable exclusively by a Court of Session under the Code, a Special Court shall have all the powers of a Court of Session and shall try such offence as if it were a Court of Session, so far as may be in accordance with the procedure prescribed in the Code for trial before a Court of Session.

(4) Where a scheduled offence is an offence which is punishable with imprisonment for a term exceeding three years but which, according to the provisions of the Code, is not an offence triable exclusively by a Court of Session, a Special Court may on taking cognizance of the offences perform the functions of a Magistrate under section 207 of the Code and thereafter try such offence so far as may be in accordance with the procedure prescribed in the Code for trial before a Court of Session as if the Special Court were a Court of Session and the case had been committed to it for trial under the provisions of the Code.

(5) Where a scheduled offence is punishable with imprisonment for a term not exceeding three years or with fine or with both, a Special Court may, not-

withstanding anything contained in sub-section (1) of section 260 or section 262 of the Code, try the offence in a summary way in accordance with the procedure prescribed in the Code and the provisions of sections 263 to 265 of the Code, shall so far as may be, apply to such trial:

Provided that when, in the course of a summary trial under this sub-section, it appears to the Special Court that the nature of the case is such that it is undesirable to try it summarily, the Special Court shall recall any witnesses who may have been examined and proceed to re-hear the case in the manner provided by the provisions of the Code for the trial of such offence and the said provisions shall apply to and in relation to a Special Court as they apply to and in relation to a Magistrate:

Provided further that in the case of any conviction in a summary trial under this section, it shall be lawful for a Special Court to pass a sentence of imprisonment for a term not exceeding two years.

(6) A Special Court may, with a view to obtaining the evidence of any person suspected to have been directly or indirectly concerned in, or privy to, an offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relating to the offence and to every other person concerned whether as principal or abettor in the commission thereof and any pardon so tendered shall, for the purposes of section 308 of the Code, be deemed to have been tendered under section 307 thereof.

7. *Power to transfer cases to regular courts.*—Where, after taking cognizance of any offence, a Special Court is of opinion that the offence is not a scheduled offence, it shall, notwithstanding that it has no jurisdiction to try the case, transfer the case for trial to any court having jurisdiction under the Code and the court to which the case is transferred may proceed with the case as if it had taken cognizance of the offence.

8. *Appeal and revision.*—The High Court may exercise, so far as they may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code on a High Court, as if a Special Court is a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

9. *Overriding effect of Act.*—(1) The provisions of this Act shall have effect notwithstanding anything contained in the Code or any other law, but save as expressly provided in this Act, the provisions of the Code shall, in so far as they are not inconsistent with the provisions of this Act, apply to the proceedings before a Special Court; and for the purposes of the said provisions of the Code, the Special Court shall be deemed to be a Court of Session and the person conducting a prosecution before a Special Court shall be deemed to be a public prosecutor.

(2) In particular and without prejudice to the generality of the provisions contained in sub-section (1), the provisions of sections 326 and 475 of the Code shall, so far as may be, apply to the proceedings before a Special Court, and for this purpose references in those provisions to a Magistrate shall be construed as references to the Special Court.

10. *Saving.*—(1) Nothing in this Act shall affect the jurisdiction exercisable by, or the procedure

applicable to, any court or other authority under any law relating to the naval, military or air forces or any other armed forces of the Union.

(2) For the removal of doubts, it is hereby declared that for the purposes of any such law as is referred to in sub-section (1), a Special Court shall be deemed to be a court of ordinary criminal justice.

THE SCHEDULE

[See section 2(d)]

1. Offences under the following provisions of the Indian Penal Code: — 45 of 1860.

Section 120B;

Sections 143 to 145, 147, 148, 151 to 155, 157, 158 and 160;

Sections 182, 183, 186 to 190;

Sections 193 to 195, 199, 201 to 203, 211 to 214, 216, 216A and 225;

Sections 295 to 298;

Sections 302, 303, 304, 307, 308, 323 to 335, 341 to 348, 352 to 358, 363 to 369 and 376;

Sections 379, 380, 382, 384 to 387, 392 to 399, 402, 411, 412, 426, 427, 431, 435, 436, 440, 447 to 462;

Sections 504 to 506 and 509.

2. Offences under the following provisions of the Arms Act, 1959: — 54 of 1959.

Sections 25 to 30.

3. Offences under the following provisions of the Indian Explosives Act, 1884: — 4 of 1884.

Sections 6(3) and 8(2).

Notification

LD/4398/77

The following Notification received from the Government of India, Ministry of Shipping and Transport New Delhi, is hereby republished for general information of the public.

B. S. Subbanna, Under Secretary (Law).

Panaji, 26th September, 1977.

GOVERNMENT OF INDIA

MINISTRY OF SHIPPING AND TRANSPORT

(Transport Wing)

New Delhi, the 1st September, 1977

Notification

S. O. — In exercise of the powers conferred by sub-section (2) of section 1 of the Motor Vehicles (Amendment) Act, 1977 (27 of 1977), the Central Government hereby appoints the 1st day of September, 1977, as the date on which the provisions of sections 4, 5 and 7 and sub-section (1) of section 12, and section 13 of the said Act shall come into force.

Sd/-

B. B. MAHAJAN

Joint Secretary to the Govt. of India.

(TGM(40)/75)